IN THE HIGH COURT OF JUDICATURE FOR
RAJASTHAN
AT JAIPUR BENCH JAIPUR.

O R D E R

Bhagwan Sahai Sharma
Vs.
State & Ors.

S.B. CIVIL WRIT PETITION NO.5238/2003.

Date of Order:- 23 July, 2007.

HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Ajeet Kumar Bhandari for petitioner.
Shri B.L. Awasthi, Addl.Govt.Advocate.

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Heard learned counsel for the parties.

Petitioner who claims to be a Class-IV employee in Devasthan Department of the Government having been appointed as Pujari w.e.f. 1/11/1972, has filed this writ petition challenging the order dated 6/11/1999 passed by the Estate Officer (Deputy Commissioner) Devasthan Department Jaipur and judgment dated 2/7/2003 passed by the Additional

District Judge No.6, Jaipur City, Jaipur. By the first order, the application of the Inspector of the Devasthan Department, Jaipur filed under Section 5 read with Section 7 of the Rajasthan Public Premises (Eviction of Unauthorised Occupants) Act, 1964 seeking ejectment of the petitioner from Devasthan Department was allowed whereas by the second order the appeal of the petitioner filed against the first order was dismissed.

I have heard Shri Ajeet Kumar Bhandari, learned counsel for the petitioner and Shri B.L. Awasthi, Addl.Government Advocate for the respondents-State of Rajasthan.

Shri Ajeet Kumar Bhandari submits that the petitioner being an employee of the Devasthan Department was entitled to reside in the Devasthan premises as per the policy/circular issued by the Devasthan Commissioner. He cited the circulars of the Commissioner dated 10/1/1985 and 26/7/2002 and argued that

as per these circulars, Pujari and Chowkidar working with the Devasthan Department are entitled to residential accommodation. It was argued that the petitioner had submitted an application to the Commissioner Devasthan department Udaipur for taking the vacant premises in the temple of Shri Rasik Maharaj at Jaipur on rent and this application was forwarded by the Assistant Commissioner Devasthan to the Assistant Engineer Devasthan Jaipur for determination of the rent. The Inspector of the Devasthan Department was annoyed with the petitioner and this resulted in filing of the application before the Estate Officer for eviction of the petitioner from the Devasthan premises. Shri Bhandari submits that even if he is not taken as tenant, yet so long as he continues to reside in the Devasthan premises, he was entitled to rent free accommodation as per their own policy. In fact, the House Rent Allowance which was otherwise payable to the petitioner

was deducted in lieu of the premise let out to him. The learned Estate Officer erred in law in directing eviction of the petitioner. In appeal also, the learned Additional District Judge has not correctly appreciated the arguments raised before it and has committed the same illegality which was committed by the Estate Officer. Shri Bhandari therefore prays for quashing and setting of the impugned-orders.

Per contra, Shri B.L. Awasthi, Addl.Government Advocate argued that there was a new circular dated 21/10/1986 which still hold good. According to that circular, free accommodation to the Pujari and Chowkidar is to be given only if they are posted/working in the same temple. The present petitioner although is a Pujari in some other temple which is situated at some distance but not in the same temple in which he is actually residing. According to the learned Additional Government Advocate therefore

the petitioner was not entitled for free accommodation in the same temple. He is illegally residing in the temple and when required he did not vacate the same. Shri Awasthi argued that even if petitioner is taken as licensee of the Devasthan Department, the license having been revoked, his continuation in the premises would render him an unauhtorised occupant. In fact, it was not a room for residential purpose as it was situated inside the place of Prikrama. The request of the petitioner to give the same to him on rent could not be accepted as the premise was not meant for letting it out. No room which is situated around the Garbh Grah opening into the Parikrama could be let out as per the norms. The letter dated 17/5/1988 clearly intended to examine the request received from an unauthorised persons who expressed interest in taking the premises on rent but it did not mean that any agreement was arrived at.

I have given my thoughtful consideration to the arguments of the learned counsel for the petitioner and perused the material on record.

While, it is a fact that the petitioner had been residing in Devasthan premises which is said to be a room opening into the Parikrama close to Garbh Grah of the temple but the petitioner has also not been able to deny the fact that he had not been working as Pujari of that temple in the premises of which he was actually residing. When the request of the petitioner to give that room to him on rent was not accepted, his position at best remained that of a licensee. Whether or not petitioner was to be allowed to be continued in the premises was therefore the discretion of the respondents and in deciding to revoke the license, the respondents do not there appear to have exercised such discretion arbitrarily. Inspite of being required to vacate the premises, the

petitioner did not vacate the same and if on that basis the respondents moved said Estate Officer treating him to be an unauthorized occupant, the Estate Officer did not in my considered view committed any error in directing eviction of the petitioner.

Various circulars issued by the Devasthan Department when read together, it becomes clear that free accommodation was intended to be provided to Pujaris and Caretakers only in the temple where they were actually working. Even if for sometime the petitioner was allowed to reside in any temple and for that matter some other Pujaries were also allowed to reside in the premises of the temple where they were working, that does not denude of respondents of their power to decide to evict him from such premises. The order passed by the learned Estate officer does not therefore suffer from any error apparent on the face of record nor it does suffer from any illegality or infirmity. The learned Additional

District Judge also has therefore not committed any illegality in rejecting the appeal filed by the petitioner.

I do not find any merit in this writ petition and the same is accordingly dismissed.

(MOHAMMAD RAFIQ), J.

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